

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ROBERT and MARTHA WOLINSKY,

2:11-CV-830 JCM (PAL)

Plaintiffs,

v.

CARINA CORPORATION, et al.,

Defendants.

ORDER

Presently before the court is defendant Carina Corporation's motion to transfer case to Judge Robert C. Jones (doc. #30), to which plaintiffs responded (doc. #48), and defendant replied (doc. #57).

Pursuant to 28 U.S.C. 1631, the court may transfer a case "to any other such court in which the action or appeal could have been brought at the time it was filed or noticed" In the present motion (doc. #30), defendant contends that transfer is appropriate because Judge Jones is already familiar with the facts of the case. The present complaint, originally filed in the Eighth Judicial District Court of Nevada in 2009, alleges that defective high zinc yellow brass fittings were used in the manufacture of the plaintiffs' homes. The case was removed by defendant in 2011 to this court. Prior to its removal, the Nevada state court conditionally certified it as a class action – consisting of all the plaintiffs whose homes were built with high zinc Wirsbo brand plumbing fittings.

At the time the present matter was filed, Judge Jones was presiding over a similar matter, *Slaughter v. Uponor, Inc.*, (Case No: 2:08-cv-01223). That case involved the same plaintiff counsel,

1 and, as defendant contends, many of the same parties. Specifically, defendant alleges that the named
2 class representatives for both this action and the *Slaughter* action own homes in the Lamplight
3 Estates at Centennial Springs development built by defendant Carina. Also, both cases concern the
4 exact same developer, plumbers, suppliers, and manufactures, and not to mention, similar allegations
5 related to the alleged dezinctification of the Wirsbo systems installed in the plaintiffs' homes.
6 Furthermore, both plaintiffs (the Wolinskys and Mr. Slaughter) have claimed that they represent the
7 same "Carina" homeowners, and therefore both actions encompass the same purported class.

8 In rebuttal, plaintiffs allege that unlike the present matter, *Slaughter* was never a class action
9 because the plaintiffs voluntarily withdrew certification. Nevertheless, the court does not find this
10 distinction warrants denying defendant's motion to transfer.

11 Moreover, defendant notes that Judge Jones requested that his court be notified if a similar
12 action to *Slaughter* was pending in federal court. Even though Judge Jones' court is located in Reno,
13 the court does not feel that a transfer would unduly burden the parties. In the past, Judge Jones has
14 agreed to hold hearings for the *Slaughter* action in Las Vegas. However, even if he declines to do
15 so now, there is no indication that this, in itself, will impede the "just, speedy, and inexpensive"
16 determination of the case, as required by Federal Rule of Civil Procedure 1.

17 Upon consideration of defendant's motion (doc. #30), as well as the record, the court
18 concludes that there are common issues and evidentiary concerns between the two cases. In the
19 interest of judicial economy and efficiency, and in order to prevent duplicate and contradictory
20 rulings, the above captioned case shall be transferred to Judge Jones:

21 Accordingly,

22 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant's motion to
23 transfer (doc. #30) be, and the same hereby is, GRANTED. The clerk shall transfer the above
24 captioned case to Judge Robert C. Jones.

25 DATED August 1, 2011.

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28 **UNITED STATES DISTRICT JUDGE**